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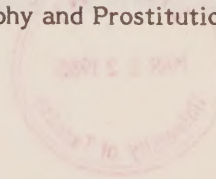
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## ON PORNOGRAPHY AND PROSTITUTION

Brief  
Presented to  
The Special Committee  
on Pornography and Prostitution



**Canadian Advisory Council  
on the Status of Women**

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of the law of Canada

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on the Status of Women

April 6, 1984







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## INTRODUCTION

The issues of prostitution and pornography are appropriately linked as topics for study by this Committee because they do have a number of things in common. These include the social context out of which they arise and are maintained, the lack of widespread knowledge about their nature, and the difficulty our society has in developing programs of concerted action which neither facilitate the degradation or exploitation of some people nor unjustly curtail the legitimate freedoms of others.

The Canadian Advisory Council on the Status of Women is deeply concerned about the existence and nature of both pornography and prostitution in our society because of the role that women play in both and because of the role that pornography and prostitution play in increasing the divisions and inequalities between women and men. That is, in the case of pornography it is women, women and our children – girls and boys – who are shown slashed, raped and often brutalized and degraded by both man and beast. In prostitution we find women and our children participating in a way of life that exposes them to risks of physical and psychological abuse and to conflict with the law.

Both of these phenomena – pornography and prostitution – can be seen to exacerbate the inequalities and divisions between women and men when we pay very serious attention to who **as a group** creates, supports and benefits from pornography and prostitution and who **as a group** is used to supply the raw material of both pornography and prostitution as well-established and growing activities in our society. The brief identification of these two groups is, of course, that it is men as a group who generate and maintain both these phenomena and women (and children) who are used as the subjects. But that brief identification is only a surface note, because the important implication of saying men as a group do this, or women as a group do that, is that these two groups have very different and unequal standings in our society. That is, they have different and unequal **power**. These differences in power are shown in women's wages as 60% of men's; in women's confinement to a very few kinds of work, including housework, which are undervalued and underpaid; in single women's poverty in youth and especially in solitary old age; and in women's vulnerability to rape, sexual harassment at work,



wife battering, and the subjection mostly of girl children to sexual abuse when it occurs in the family. (Of course, we are fully aware that much of child pornography portrays male children and that approximately half of juvenile prostitutes are males, but this does not alter the relationships of power held by the producers or users of pornography or prostitution over the powerlessness of children.)

To characterize as a power relationship the production of portrayals of violent, degrading treatment of women and children or the paying of women to engage in certain physical acts may seem at first glance to be illogical or inaccurate. Often these activities are seen as sexual behaviour of a sort that is somehow "natural", and therefore not suitably subject to societal influence or control.

A similar situation has held until recently in the interpretation of rape. It was seen as a form of sexual behaviour on the part of the rapist. Though society did have laws against it, somehow the responsibility for the act was seen to be out of the rapist's control because he was a bizarre, abnormal figure, or responsibility often was placed upon the victim, because the rapist was seen as a normal man for whom the woman should not have been available or enticing.

That reasoning no longer holds up for rape. It has been women who made the case that rape is an abuse of power by one person over another, using the rapist's body as a weapon and the victim's body as an object for humiliation, degradation and physical abuse, even in some cases resulting in death of the victim. That women's analysis of the true nature of rape has achieved some degree of acceptance is shown in the recent amendments to the Criminal Code dealing with rape and sexual assault.

Now the same type of clear, unflinching description and analysis of the true nature of pornography and prostitution must be made.

First, it must be clear what we mean when we speak of both pornography and prostitution. During this discussion, pornography will first be dealt with and then prostitution.

## PORNOGRAPHY

The Canadian Advisory Council on the Status of Women has adopted what now is a widely-used definition of pornography.<sup>1</sup> It is that:

Pornography is a presentation, whether live, simulated, verbal, pictorial, filmed or videotaped, or otherwise represented, of sexual behaviour in which one or more participants are coerced overtly or implicitly, into participation; or are injured or abused physically or psychologically; or in which an imbalance of power is obvious, or implied by virtue of the immature age of any participant or by contextual aspects of the presentation, and in which such behaviour can be taken to be advocated or endorsed.

It must be clear that our objection is not to so-called erotic material, that is, to the portrayal of sexual behaviour even of an explicit sort as long as there is no degradation, violence, or inequities of any sort characterizing the interaction, and no approval of these negative images. But the enormous increase in both the violent content and the accessibility of what we now see as pornographic material is the problem to which the Council wishes to address itself.

The members of the Committee will by now no doubt be familiar with the horrific pornographic material that is readily available to members of the public of any age. That the material is of an extremely disturbing nature and that it is readily available and expanding more and more into the home environment through video cannot be disputed. It is true that there are often disputes about the impact that pornography may have upon the viewer.

When citizen's or governmental agencies are attempting to arrive at a workable response to the issue of pornography, the statement is often made that there is no proof or that there is inadequate proof that pornography harms the viewer or harms the society at large. Certainly there is research to try to determine whether or not there is harm.

It is our belief that the methodological problems and the ethical dilemmas involved in this research will not lead to absolutely clear-cut answers to these questions in the near future, though research by scholars such as Donnerstein and Malamuth<sup>2</sup> do provide useful indications as to the actual harmfulness of pornography in its desensitizing men to the brutal treatment of women. However, this intense demand for clear-cut proof is somewhat unusual in the realm of social policy. In effect, the called-for test of the impact of pornography is of a much more rigorous sort than the tests to which we put many of the other social phenomena upon which the society must act.

For instance, there has been little doubt in the minds of the public that role models do have an impact upon their viewers. Our society maintains that those who have a responsibility for training our young should be people of the sort that we would not object to our children becoming. There is debate as to what characteristics are most desirable and what characteristics are merely tolerable in teachers, but there is no question in anyone's mind that parents or teachers do have a significant impact upon our children's behaviour.

The same argumentation holds when we consider the issue of role models in relation to choice of work, choice of career, or of overall moral or ethical training, not only for young people but for adults. In terms of the most simple theories of any kind of learning of social behaviour, it is accepted that we are influenced not only by the facts and the images which are presented to us, but we are also influenced by what is **not** presented to us. That is, if a society is presented with one view of methods of problem solving, i.e., violent confrontation, and no other view is presented, then we would expect it to be very difficult for alternatives to be devised by the citizenry or by those who govern them. This leads us back to pornography.

If we are to accept these basic ideas of the way a person learns about anything, then it would be obvious that quite dramatic portrayals of inequality and exploitive treatment of one group by another group are very likely to be harmful not only to the individual, in terms of their own personality, but in terms of how they then understand their relations to others. If we connect the portrayals of the relations between the sexes and the larger societal context, we are reminded of the



negative treatment of women that characterizes the most frequent portrayals of them in the media, whether it be drama, comedy, or advertisements. (While not pornographic, this programming is quite one-dimensional in its portrayal of the inter-action between the sexes.)

That in itself may be harmful enough, but again the fact that so few other (egalitarian) patterns of inter-action are portrayed, doubles the limitations put upon our ability to learn humane and genuinely loving relationships among all people. In other words, general sexism in the media is bad enough, but the violent, degrading portrayals of women in pornography are definitely beyond the pale.

With that understanding of the harmfulness of pornography and the specious requirement that **absolute** proof of harm must be furnished, we have a context for the Council's approach to the problem of pornography. Pornography is rejected completely as having any redeeming values for its existence in society. It is not a matter of a persons' individual, or civil rights that they produce or that they utilize material that unquestionably perpetuates and quite likely enhances inequality between the sexes – any more than material which is racist can be seen as acceptable. The Committee will be aware of the arguments pro and con as to the production or consumption of pornography. We will review them briefly here.

Citizen's groups and especially women's groups have been exerting pressure on government to provide adequate controls over the production and distribution of pornographic material. Such action has caused a lively debate in which diametrically opposed factions have become involved.

Neither those who oppose nor those who favour controls have been able to reach a consensus on their respective viewpoints and ideologies.

Some opponents of controls have never questioned the socio-cultural patterns which have shaped their thinking and given them a very stereotyped image of a woman's role in society. The objectification of a woman's body, its transformation into a object for sexual consumption, elicits no negative reaction from these people. On the contrary, this phenomenon is perceived as being normal and part of the value system of society as a whole. They do not feel it is

worthwhile drawing attention to the views of the segment of the population which opposes the perpetuation of this image of women. They evidently prefer the easy solution of maintaining the status quo on the social and sexual role of women.

Other groups or individuals express their opposition to regulatory controls in a more active and forceful manner. They call for the respect of freedom of expression to demand a non-interventionist policy by government in an area which in their view remains an individual choice. They claim to defend the rights and freedoms of the individual. The civil libertarians, among others, have made freedom of expression not just a fundamental right but almost an absolute right. They argue that adults have the right to decide for themselves what is good for them and what they can consume. Therein lie the two aspects of freedom of expression: freedom to produce and freedom to consume. Freedom to produce and freedom to consume imply the right to information, which is considered to include access to the goods produced and by extension, the right to demand the broadcasting of information on matters in which interest has been shown.

From this viewpoint, the only justification for restricting freedom of expression would be in situations where there is a conflict which the fundamental rights and freedoms of others, and even then a direct causal link would have to be demonstrated between the consumption of pornographic material and, for example, violence against women in society.

This is the problem faced by those who consider pornography to be discrimination against women when they have to defend their position against that of the civil libertarians. The civil libertarians have up to now given little credence to the research on this subject; the cause-effect relationship has not in their opinion been adequately demonstrated. The overwhelming evidence of the latest studies, however, should prompt those who truly seek justice to review their stance.

Individuals or groups favouring controls on pornography can be divided into two major groups: the moralists and the feminists. The two groups must not be confused because they have different motivations. The moralists are primarily concerned with the effects on moral behaviour of exposure to explicit sexual

material and the feminists are concerned with eliminating a system which hinders the promotion of women's rights.

Our mandate is obviously to defend the feminist viewpoint. We have become extremely conscious of the extent to which pornographic material has infiltrated our lives. Feminists are persons who work at promoting women's rights in our society. As pornography is becoming a powerful instrument against these rights, women can obviously no longer tolerate this type of negative propaganda. The feminist struggle is essentially nourished by a will to defend women against a system which negatively affects them in the full exercise of their rights and freedoms, as we have been attempting to demonstrate throughout this brief. At no times does the feminist cause attempt to repress the expression of sexuality or to prohibit the creation of erotic art forms. The analysis of pornography according to this perspective makes us realize how the words eroticism and sexuality have been misused to obscure what is primarily an expression of violence and hate toward women. Women are already fully aware of the impact of real violence, whether explicit or not, on their day-to-day lives. Because of their own experience, they have always been apprehensive of the effects of the consumption of pornographic material. The latest research only confirms such fears and, if the findings are not new to feminists, they may surprise others.

We of the Canadian Advisory Council on the Status of Women have for many years been aware of the violence perpetrated against women. For us the unequivocal message of sexual violence can only be taken as society's approval of the alarming proportions such violence has assumed. Our statistics on violence toward women have often been quoted; there is no need to repeat them here. Although the message of violence against women is not always explicit, it is ever-present in pornography; if the attack is not on women's sexual behaviour, then it is on their social behaviour. Women are constantly portrayed as objects in both their sexual and social interactions. Whether women are shown in pornographic material as mothers-to-be, at the job, as housewives, lovers, sports participants, or students, in all these portrayals they are reduced to objects for sexual consumption. Pornography not only threatens their physical integrity and safety but also prevents the achievement of their objectives of equality in the workplace, in the home and in social activities. As long as pornography counteracts women's efforts to gain



their rightful place in society, it will constitute a serious impediment to their freedom of expression.

At this point, we must therefore collectively analyze the two forms of freedom of expression to decide what rights we would like to uphold as a society. The right of the producers of pornographic material to broadcast a violent and untruthful message or the right of women to safety and integrity? The pornocrat's right to deny our humanity and our right to equality or our own right to demand that equality be respected? The pornocrat's right to benefit financially by fostering dissension between men and women or our right to live as equals with men who wish to join us in this endeavour? The pornocrat's right to ridicule the sexuality of our children or our children's right to expect society to promote harmonious sexual development?

Obviously, in light of these questions, the pornocrat's freedom of expression shows a different face. The real stakes with regard to the proliferation of pornographic material are placed elsewhere. The principle of freedom of expression has served to nurture our tolerance and prevent us from seeing pornography for what it really is – an extremely lucrative industry which has experienced immense growth. When seen in this light a number of considerations which would otherwise be the subject of heated debate can be ignored. Even in free-entreprise society there are many controls on industry and these are readily accepted when a risk to the consumer has been established.

We therefore deplore the fact that the debate on pornography has most often lapsed into a debate on censorship and that even here the group which is the real target of this censorship has been ignored. Pornographic expression will always be a negation of women's freedom to express themselves.

### Controls

The discrimination which pornography fosters with regard to women's rights should motivate legislative, administrative and judicial authorities to institute controls for its elimination.

The legislation proposed by the Department of Justice has the advantage of removing the obligation to establish a link between sex and violence before material can be deemed obscene. It also introduces the notion of degradation through which a whole range of behaviour may be targeted. The use of the term "dominant characteristic" however concerns us because it leaves us in the dark as to the fate of material which may not be **totally** violent or pornographic. At what point can we say it becomes a **dominant** characteristic?

We therefore regret the use of the word "dominant" and propose its withdrawal unless a substantially improved definition can be formulated. We also regret that the term "undue exploitation" has been employed in the proposed legislation in view of the difficulty the courts have had in interpreting it. The word exploitation is itself sufficient to denote the situation we have in mind.

Having considered the approaches most likely to facilitate achievement of our objectives regarding the control of pornography, we would favour criminalization of violent pornography. We repeat that in our view all pornography is violent. The types of violent behaviour that we would like to see criminalized are those which stem from the definition of pornography as noted earlier. This is a broad enough definition to encompass all forms of degradation, domination, humiliation, abuse and coercion.

Whatever the final wording adopted by legislators following all the recommendations, there should be no ambiguity for those who will have to apply the legislation concerning domination:

- the portrayal of women as inferior beings;
- the depiction of women in positions of servitude or submission;
- the depiction of women as naturally or basically corrupt beings.

Physical abuse should include the portrayal of women being raped, beaten and chained and women as victims of acts considered to be criminal under the Criminal Code. It must be remembered, however, that it is not the depiction of such acts which is condemned in the definition that we endorse but a portrayal which supports or sanctions such behaviour. Thus, if violent images are shown for educational purposes, as in the National Film Board's "Not a Love Story", this would not be a pornographic presentation.

We equate with psychological abuse all forms of degradation and humiliation, such as:

- the depiction of acts or sexual interplay with animals, or acts or sexual interplay with objects;
- the depiction of women in postures characteristic of animals, e.g. when they are held on a leash.

Lastly, this definition should lend itself to such interpretation that women who are subject to physical or psychological abuse may be presumed to be nonconsenting even if their facial or verbal expression should indicate otherwise.

Up to now we have described pornography as a system utilizing women as raw material. We have approached the subject in such a way as to highlight the degree to which women collectively suffer from pornographic exploitation. The favourable collective image to which every woman is entitled is destroyed by pornography. This leads us to consider that we are in fact confronted with hate propaganda in the same way that other racial groups could claim to be if, day after day in every media and in nearly all public places, they were portrayed for recreational purposes as being inferior beings or objects.

To complete, endorse and give more weight to a new definition of pornography, we would strongly recommend that legislators also amend Section 281.1 (under hate propaganda, "advocating genocide") and Section 281.2 ("public incitement of hatred") of the Criminal Code so that the term "identifiable group" include the sex of the group members.



Our feminist perspective helps us realize that men and children are also being exploited by pornocrats, if to a lesser degree. We ask that this industry also be subjected to rigorous controls. With regard to minors, we would like to state our view that their use in the production of pornographic material should not be required to meet the criteria of violence to be considered criminal. The objectification of their nudity and its presentation for recreational or profit-making purposes constitutes sufficient grounds for criminalization. It is unacceptable that the sexuality of youth should be distorted to respond to the fantasies of adult consumers.

We also believe that we should not only attack the production and sale of pornographic material involving minors but also that **simple possession** of such material be considered a criminal offence. It is a known fact that in the United States pedophiles tend to develop their own market and exchange material among themselves. The quantity of child pornography now in general circulation would seem to represent only the tip of the iceberg. It would be suprising if the situation were any different in Canada. Indications are that pedophilia has become so widespread that possession of any material which directly or indirectly encourages this phenomenon or tends to make it perceived as normal and acceptable should be made a criminal offence.

We are concerned not only with the exploitation of minors as subjects of the pornographic message but also with the access they have to pornographic material. Unfortunately, many young people obtain their sexual behaviour models from pornography and they feel very distressed by the violence and loneliness they find, which leaves their need for affection and communication totally unsatisfied.

In January 1981 the government introduced in the House of Commons **An Act to amend the Criminal Code in relation to sexual offences and the protection of young persons** (Bill C-53) which contained draft sections 168.2 and 168.3 dealing with child pornography. The Council made the following recommendations concerning these articles as then drafted. They are that:

- 1) **Section 168.2 be amended to make a similar offence of procuring children for live pornographic performances;**

- 2) The term "sexually explicit conduct" be replaced by the term "sexual conduct";
- 3) The defence of mistake of fact pertaining to the age of the child be made inapplicable to this article;
- 4) The maximum penalty be increased from 5 to 10 years;
- 5) An additional offence for possession of child pornographic materials be created;
- 6) The age limit be increased to 18 years.

These articles were not passed into law at that time.

To control pornography effectively we must also ensure that the Canadian market is not flooded with products which may be illegal if produced here. Control of the distribution and circulation of this material requires the strict enforcement of the sections of Criminal Code dealing with the importation of obscene material, which is not presently the case since we are being inundated with pornographic material from other countries, notably the United States.

Criminalization of pornography will never be sufficient to control this phenomenon in all its ramifications; only violent or degrading behaviour will fall under the Criminal Code. We remain firm in our belief, however, that all pornography must be eliminated – even what is today referred to as soft-core pornography. We are therefore convinced that a series of measures must be provided to supplement criminalization so that we can truly speak of a political will to eliminate discrimination against women. Thus, a measure which in our view would be highly desirable would be to convert the present CRTC **guidelines** concerning sexual stereotypes into **regulations** to which all businesses applying for new permits or renewal of permits must conform. These regulations would obviously also apply to pay TV.

In conjunction with this regulatory approach we urge government and administrative authorities to develop awareness programs for the general public and for all agencies responsible for applying this legislation. The police, for example, should be required to record instances of pornographic material appearing in places where infractions of a sexual nature have been committed.

The provinces and municipalities do have a role in the control of pornography. Because their respective powers are sometimes unclear (as we have seen in the case of by-laws about prostitution), we can only state at this point that any control measures taken should be in the spirit of the changes in the Criminal Code and in broadcasting and customs regulations called for here. It may not be easy, but the severity of the problem requires careful effort on the part of all who wish to stop the attack on women (and children) that pornography entails.

## PROSTITUTION

Turning to the issue of prostitution, the Council has undertaken a study of selected aspects of this phenomenon in its historical context and of one current form of it: street prostitution. In a report to appear within a matter of weeks, we will discuss the social underpinnings of prostitution; the history of the law relating to it and a discussion of the law as it now stands; describe briefly the character of street prostitution; review the varied prostitution control mechanisms used by several countries today; and finally suggest needed legal and social reforms appropriate to the current Canadian situation. That report informs this presentation.

The earliest legislation on prostitution grew out of general vagrancy statutes which were designed to remove indigents and other undesirables from the streets. (This has a familiar ring today, it might be noted.) Proponents of what is called "regulation" believed that prostitution should be recognized as a necessary social evil, and regulated so as to contain its worst side effects, such as venereal disease. Proponents of "prohibition" believed that prostitution should be eradicated, and wanted criminal law to serve as a tool to root out all forms of prostitution activities. Those in favour of a "rehabilitative" approach believed that



individual prostitutes should be rehabilitated in order to remove the supply of women necessary for the continuation of prostitution. Feminists, social reformers and government officials all vigorously debated which approach was preferable, although each was tried in some form or other. All of these legislative schemes were doomed to failure, however, because they were interlaced with class, race, and most significantly, sex discrimination. Sex discrimination showed most blatantly in the fact that the law (except for that related to pimping and procuring) was directed largely toward the activities of women (the prostitutes or the poorest of madams) and none were clearly directed, or vigorously enforced toward men, particularly as they operated as customers. That this type of discrimination existed wherever prostitution itself existed is shown in Abraham Flexner's 1914 report on **Prostitution in Europe**. His work shows the problem only too clearly. His analysis reveals the attitude toward sex discrimination in the law that was typical of his era:

The professional prostitute being a social outcast may be periodically punished without disturbing the usual course of society . . . The man, however, is something more than a partner in an immoral act: he discharges important social and business relations, is as father or brother responsible for the maintenance of others, has commercial or industrial duties to meet. He cannot be imprisoned without deranging society.<sup>3</sup>

This uneven treatment of women and men involved in prostitution is a flagrant example of the use against women of the double standard of social and sexual morality. It is a strong statement of the greatly disadvantaged status of women in the past and the Council knows that this inequality remains with us today. The idea that prostitution is just a matter of buying the services of a woman in order to achieve sexual release is far too narrow a view of what this activity really is, and of who is involved in it. Thus, the nature of prostitution must today be examined in a broader and more knowledgeable context.

First, prostitution is not an exchange of so-called "services" for pay between equals. The exchange is highly uneven, or asymmetrical. Men, who as a

group occupy the positions of social, economic and political power in our society, buy services from the less powerful in our society – women (often women who are poor, young or under-educated), and male and female adolescents or children. The sellers have little or no defence from the risks of physical or sexual abuse or of economic exploitation. They have a fairly low social status in society and if prostitution results in legal sanctions, they have the added social and economic problems that come with having a police record. The buyer, however, generally is not identifiable as a user of prostitutes so there is little danger of social disapproval resting on him. Also, he is the one with the money. The economic dependance of prostitutes thus reinforces the social vulnerability that they experience.

Second, it is not even clear that the exchange that does go on is sexual in nature, or predominantly so. It is true that the efforts of the customer and prostitute are directed toward the customer's ejaculation, but as is known from our research, the time taken from the negotiation of the act to its completion is a matter of a few minutes. The setting often is a car or alley or an anonymous room, with the prostitute consciously keeping as great a physical and psychological distance as possible from the customer. What the customer thinks or feels is not known, but it would be hard to imagine that he has an impression that this seller is someone he can know or could get to know as a distinct individual. In fact, it may well be that it is precisely the anonymity and impersonality that appeals to the customer – not just because of the social safety for him that impersonality and anonymity ensure, but because he can imbue that person in that exchange with any qualities he wishes for those few moments, since he has no obligation to know the seller's sexual or social needs and adjust himself accordingly.

Of course, exploring whether or not this exchange is sexual, depends on the definition of sexual acts or sexuality. If sexual acts are orgasms only, then for the male what happens with a prostitute is a sexual act. But if sexuality includes some idea of mutual sexual gratification, even at as "simple" a level as **both** partners wanting to have orgasms and doing so, then prostitution definitely isn't sexual.

Today, sexuality can be seen as much more than orgasms (and unilateral ones at that). It includes the experience of our physical selves as a part of enjoying and knowing selected others as well as ourselves. In this context, a situation like prostitution which is characterized by brevity, impersonality and inequality, can hardly be seen as truly sexual.

Thirdly, there are far more types of participants than prostitutes and their customers (the latter presumably far out-numbering the former) and any legal and social action must accurately and fairly take this into account. There are those who directly profit from the activities of prostitution – pimps, owners or managers of places where prostitution takes place, people who put customers in touch with prostitutes (bellhops in certain hotels, some taxi drivers, etc.). These all break existing laws but rarely are charged accordingly.

There are others involved with the world of prostitution but whose role is not one of direct profit from it. They are regulators, such as police, or the people who formulate our laws and the courts who interpret them, whose activities impinge upon the world of prostitution.

Also there are those lawyers who help the prostitutes through the legal system when they encounter major difficulties there. Doctors, too, may be called upon to treat prostitutes when they have contracted diseases or have been physically abused in the course of their work, or if they need abortions.

The public, too, has a role in the phenomenon of prostitution, in-so-far as the public has an array of attitudes and reactions toward prostitution, and these attitudes and reactions contribute to the treatment society affords to the participants in this activity. Of course, society is not united in its opinions about prostitution and its related activities, nor about what, if anything, should be done about it. This ambiguity and ambivalence is reflected in our laws and the enforcement of them, just as it is reflected in our various and often contradictory attitudes toward the people involved in the array of roles played out in prostitution as a whole.



Any fair and complete examination of modern-day prostitution must then, take into account the wide range of those involved or affected and the varying or even conflicting concepts as to its nature.

At this time prostitution has become a notable topic of public interest and controversy. The Canadian Advisory Council on the Status of Women has undertaken its study and this brief to try to contribute to an enlightened debate on the role of prostitution in our society and the appropriate reaction to it. The Canadian Advisory Council on the Status of Women has a particular interest in the subject of prostitution for several reasons, some perhaps more obvious than others. The Canadian Advisory Council on the Status of Women has as part of its mandate the task of providing information to the public on matters of concern to women in our society. In that the great majority of adult prostitutes are women and in that it is prostitute women who are most often subjected to legal action rather than the other much more numerous participants or facilitators of prostitution, then the Council must examine both the question of women's participation in prostitution and the unequal treatment of them. It also must consider the experiences and opinions of women whose everyday life as residents in certain neighbourhoods is negatively affected by their proximity to prostitution-related activities.

But there is a wider issue related to prostitution that draws the attention of the Canadian Advisory Council on the Status of Women. That is the commercialization of sexuality in prostitution, the turning of sexually-related behaviour into a commodity, into something that is bought and sold. The commoditization, de-personalization and asymmetry of sexuality pervades our society, appearing as it does in advertising, in fashion, and in subtle and blatant standards of beauty, attractiveness and desirability of women. (These standards are not set by women and few women can meet them.) Prostitution is an extreme case of this, with its explicit bargaining of price-for-service, with the emphasis upon youthfulness (though prostitutes may cover a wide range of age groups, youth is at a premium even though customers can be and are of any age) and upon fairly obvious and stereotypic ideas of female attractiveness.

As has been mentioned above, the typical exchange between prostitute and customer is socially asymmetrical, brief, impersonal and cash-based. No

matter what the individual motivations or circumstances of the people involved in a given act of prostitution, the larger issue arises as to what kind of society creates or maintains a situation where this kind of asymmetric, depersonalized economic exchange is necessary or seen by some to be desirable. These exchanges are necessary for the prostitute in terms of making her living and for the customer by reason of preference, or perhaps **because** of that very impersonality or cash basis. Or customers may engage prostitutes because of a lack of alternatives for even minimal sexual exchange in a more personal and socially equal setting. Why have they been denied or why do they reject more open and egalitarian sexual exchanges?

Our society still suffers greatly from rigid concepts of sex roles. Women's work still is massively undervalued. Women are still largely confined to the edges of economic and political power. They are the subject of the most gruesome and brutal treatment in pornography. In everyday life tens of thousands of women each year are assaulted within their marriages, and all women must fear for their safety even in their own neighbourhood. All of these conditions can be related to prostitution in that a phenomenon like prostitution must be seen as a direct result of the overall demeaning of women's situation in society and a perpetuation of it. It does so in the larger sense of perpetuating the inequities and commoditization of sexuality, and it does so in the more limited sense that only prostitutes themselves are castigated, punished, and stigmatized. Obviously, it is inaccurate and unfair to single out prostitute women for blame for the whole complex institution of prostitution.

In the long run, if the eradication of prostitution is desired, then ways must be found to eliminate unequal, depersonalized relationships between all people, to end sexual stereotyping and the commoditization of sexual acts. Obviously, all economic, political and social inequities between men and women would have to cease. That Utopian society is a long way away, but its distance cannot justify refraining from serious attempts to understand prostitution and to react in an humane and non-sexist way to it.

The Canadian Advisory Council on the Status of Women has as a central purpose facilitating actions on the part of the public and of government that would

improve the status of all women in our society. It might seem that since most adult prostitutes are women, the immediate goal of concerned women would be to eradicate prostitution, on the assumption that it is harmful to women who engage in it and harmful to other women who live in a society where women's sexual services are blatantly bought and sold. But for the women who engage in prostitution, this is their livelihood and their way of life. We may not know all there is to know about prostitution but one thing that is very clear is that prostitutes themselves absolutely reject having their source of income taken from them. It is particularly galling to them to have this action proposed by those who would do it for the prostitute's "own good." This presentation should not be seen in that light.

Women concerned about prostitution are aware that there are other women in society who are included among residents of neighbourhoods who feel that their own way of life is disrupted or their social values affronted by activities associated with prostitution. These women's position also must be considered.

Women also care about the overall quality of their society. Women have long been at the forefront of struggles to make our social relationships more egalitarian, to improve the educational and cultural levels of our citizenry, to have working conditions be less harsh, and to have our laws and their enforcement be more humane. If prostitution is, among other things, a reflection of a society with unequal and highly impersonal relations between the sexes, then some things must be changed – but not at the direct and immediate expense of women now dependent upon prostitution for their income, nor at the expense of women and others who are affronted by prostitution-related activities in public places.

In evaluating prostitution then, the Council maintains that prostitution as a whole enterprise reflects a sexist society that encourages unequal, impersonal, commercialized sexual relations between women and men. Within the procedures and people involved in prostitution, the prostitute herself bears the brunt of social stigma, legal complications, risk of physical abuse or sexually transmitted diseases, and expropriation of much of her income by others.



The long-term goal of dealing with prostitution would be to eliminate unequal, depersonalized, commoditized sexual relations between people and to eliminate the social and economic inequities between men and women that put women in more vulnerable roles in prostitution *per se* and in many other socio-economic circumstances as well. Strategies for accomplishing this would include broadening women's access to the full range of educational, economic and social roles within society. Men and women would have to work together on an equal basis, socialize on an equal basis, and have the opportunity (and obligation) to learn about each other as whole people. The distance between the sexes and which is still rigidly maintained in our socio-economic life would have to be removed. It would only be then that people could truly choose the type of personal and sexual relationship in which they engaged. Only then might women and men both be able to develop these relationships as each wished.

But for the present, what can be done in the face of current realities? The Council has three closely interrelated concerns, all of which take into account the Council's efforts to contribute towards a more egalitarian treatment of all women in our society. One is that women who work as prostitutes may do so with a minimum risk of physical abuse from customers or pimps, of unfair treatment in law and its enforcement, and from financial exploitation by pimps or other "entrepreneurs." At the same time ordinary citizens must not be harrassed or intimidated in any way by prostitution-related activities. To deal with these concerns, there must be some changes in existing laws and there must be vigorous, even-handed application of the laws when changed. Finally, the Canadian Advisory Council on the Status of Women suggests the development of social policies which would decrease the demand for asymmetrical, commoditized sex, and which would make it easier for prostitute women who wish to take up other forms of work to be able to do so.

### Legal Reforms and Monitoring

Within this legal and social context then, it seems that it would be reasonable to make changes in particular laws that, in the short term, would allow prostitutes to carry out their activities in physical safety, without being subject to

coercion and exploitation of pimps and illegal entrepreneurs (including the possible control of prostitutes and related activities by organized crime), **and** without their activities causing a disturbance to people in public places.

With these considerations in mind, the Canadian Advisory Council on the Status of Women has recommended several changes to the Criminal Code. They are a form of partial decriminalization of selected prostitution-related offenses, while retaining sanctions against all offensive solicitors. They are:

- 1) The abolition of the present "soliciting" provision in s.195.1 of the Criminal Code to be replaced by the creation of a new offence wherein the pressing or persistent solicitations of anyone, for **whatever purpose** in a public place, would be liable to penalty;
- 2) A broad definition of public place which includes:
  - a) a motor vehicle located in or on a public place;
  - b) a place which can be seen from a public place;
- 3) The amendment of the **definition** of a common bawdy-house in s.179 of the Criminal Code in order to make it clear that it refers only to places used for the purpose of the prostitution of **others** and to places used by **more than three persons** for the purpose of their own prostitution;
- 4) The amendment of the criminal offence of "procuring" in s.195 of the Criminal Code to ensure that all persons who may be subject to procurement are protected. That is, anyone who procures **anyone**, no matter the status of the procured person, commits an offence;

- 5) The retention and vigorous enforcement of the amended procuring provision in s.195 of the Criminal Code;
- 6) The creation of an additional new criminal offence of "offering to purchase, or purchasing sexual services of a person under the age of eighteen years". Mistake of fact concerning the age of the individual should be no defence to this charge.

The above recommendations for partial decriminalization recognize that the nuisance problem of pressing or persistent solicitation is sufficiently great to be of real concern. However, rather than singling out soliciting **for the purpose of prostitution** for special mention, as happens in s.195.1 of the Criminal Code, it attempts to use the criminal law to reduce **all** forms of pressing or persistent solicitation.

This does not mean that unobtrusive, inoffensive soliciting of the sort with which we are familiar at Christmas-time from social welfare groups or from pamphleteers who stand quietly on the sidewalk simply holding their brochures up for public view will be liable to criminal sanctions. They are neither pressing nor persistent in accosting any individual. These changes would also permit prostitutes and customers to operate freely in those places which do not contravene the revised definition of a public place nor of a common bawdy-house. This may reduce some of the street activity now associated with prostitution. It would also give prostitutes the added protection of being able to work in twos or threes, as long as they are working for themselves and not being exploited financially by others. Retaining the bawdy-house provisions in s.193 under the new definition would allow the law to continue to penalize everyone attempting to profit from the organization of prostitutes into brothel operations.

Of course, in the enforcement of any of these laws as suggested above, it is essential that their application be efficient, equitable and non-sexist, particularly where soliciting is at issue. Our research has shown this rarely to have been the case and this must not be so in future.

Though the Canadian Advisory Council on the Status of Women has developed these alternatives to existing legal approaches to prostitution-related offenses, it must be recognized that no one can determine at this point whether they – or any other laws – will succeed, given the complexity of this phenomenon. Therefore, any laws declared in the near future **must** be accompanied by research as to their application and efficacy. In connection with the specific alternatives presented above, the Canadian Advisory Council on the Status of Women **also recommends** that its policy of partial decriminalization be implemented for a period of several years during which its effect would be monitored and assessed. At the expiration of this period its usefulness should be evaluated with specific reference to the following criteria, among others:

- 1) its success in alleviating the burden of legal and economic penalties which are now borne almost entirely by the women who are prostitutes;
- 2) its success in minimizing nuisance behaviour in streets and neighbourhoods;
- 3) its enforcement in an equitable, non-discriminatory manner;
- 4) its efficacy as a system which discourages the participation of pimps and organized crime in activities carried out by individual prostitutes.

Unless thorough research goes hand-in-hand with informed law-making, there is a very real danger of further complicating an already discouraging situation.

### Social Reforms

Legal reform is essential in the area of prostitution, but it must be emphasized that our laws and the enforcement of them are shaped within the



larger context of the economic, political and social institutions which our society maintains. Laws are only one part of a society's institutions and it would be mistaken to expect that legal reform alone can completely change, increase or eradicate any given social phenomenon. In the case of prostitution, real change can only come about if there are extensive changes in a wide range of institutions, attitudes and behaviours in our society.

These changes may be occurring slowly, but it is not difficult to see that prostitution will continue to be an option for some women as long as alternative means of economic support are difficult to obtain or are unappealing to a woman who does not want to engage in the kinds of work into which most women are channelled. Of course, there will be money in prostitution for women (or girls, and boys or adult men), as long as this type of exchange is seen as acceptable and desirable, for whatever reasons, by a large enough number of men. This will make prostitution sufficiently worthwhile for others to accept the risks and precarious social status that prostitution incurs.

In terms of social reforms addressed to prostitution there are two levels of reform to consider. One is the development of measures to assist those women who are currently prostitutes to adopt a different life style if they wish to do so. The other level of reform would be much broader in scope and would aim at altering those aspects of society which create rigid stereotypic expectations of female and male behaviour and which reinforce the economic and social inequities between women and men, of which prostitution is an extreme, but not unusual example.

In terms of women who are themselves prostitutes, it can be very difficult to take up the very different life-style and everyday discipline of paid work in the labour force. Anyone who has spent years of their life, particularly a significant portion of their late 'teen or early adult life, in a marginal or even "outlaw" status, is unlikely to have the kinds of skills and knowledge currently required for most standard jobs. Neither are they likely to have the contacts that could help them be placed in the regular paid work world. Also, the unregimented life of a prostitute, who can generally set her own hours of work, who lives in a world of cash exchanges, whose money may come as easily and quickly as it goes,

and who is not linked firmly to the "disciplines" of work in a highly specialized setting is likely to find it very difficult to make the transition to that new world. Aside from these difficulties, there is the distinct possibility that the "straight" world in general can be rather unappealing in its daily routines. Additionally, an ex-prostitute is faced with the fact that the jobs which she can get, like the jobs most women hold, are probably less challenging or well-paid than the jobs any man, even if equally marginal, is able to get.

To assist prostitute women who wish to do so to move from their marginal social and economic status into the mainstream of our society, a number of existent programs could be of use, with the addition of certain features that take into account the lifestyle of which prostitutes have been a part. Any woman who is isolated from the mainstream and/or who is not attached to the labour force needs access to programs which inform her about the prerequisites for entering the paid work force. She needs to know what jobs exist, what training they require, how to engage in job searches and then make out applications and have job interviews. She will need to know more general aspects of paid work – how to behave on the job, how to relate to the other workers, how to try for advancement if she wishes it.

There are a number of programs across Canada which offer information and training on one, more, or all of these aspects of the paid work world. Some community colleges, community organizations and women's groups offer these programs, as do certain provincial and federal government offices. It must be emphasized, however, that the programs are often underfunded and one effect of the underfunding is that many types of the programs are not offered uniformly across the country. A lot depends on the initiative of local people and this may mean one city or town may have a good range of programs, while another may have relatively few.

While prostitute women thus share the same needs for skills training, job entry and on-the-job support that other women do, any program that wishes to be particularly receptive to the prostitute-in-transition would need to devote special attention to how it can reach and make welcome and comfortable women who have been living in some ways rather differently than the usual clientele. A

high degree of involvement of the women themselves in planning and carrying out the program would probably solve some of these problems. Provision for the women to form "support groups" where they can discuss and analyze experiences in this time of change could be an important aid to the other aspects of any program. (Of course, this support group feature is fairly common in a wide variety of programs offered to people embarked on changing their lives.) The essential point is that it be tailored to the clientele, and in the case of prostitutes that an organization not invalidate the previous life experiences of the women by failing to establish ways for the women to usefully link the relevant parts of their previous life to the relevant parts of their new life.

At the more general level of social reform there would have to be extensive action taken on two fronts – economic circumstances and social attitudes. In economic terms, all women must be able to choose freely the kind of work they undertake. An essential element of real choice is that a person not be constrained in what they do before they even begin, because of discrimination on the basis of sex, ethnicity, race, age or class. This would require a major restructuring of the work world and the institutions such as our educational system that feed people into it. Outmoded ideas about the desirability of having women do only certain kinds of work, or prejudices against working with women managers, or misconceptions about the economic and social necessity for women to work for pay, must be eradicated by the "push" of affirmative action programs and the "pull" of educational programs both on the job and off.

Secondly, the attitudes and beliefs about women's and men's nature, their role in society, their needs and their rights, must be dramatically changed. The double standard of sexual morality, the belief that women's work is not real because much of it is not paid (or if paid, that it is not important or that it does not warrant equal pay for work of equal value, compared to that of men), the attitudes toward women that result in physical and sexual assault, the belief that women still somehow are "property" of their husbands or sexual partners, all of these must be changed if women are to be genuinely independent, yet highly participatory members of our society.

At least some of this change could be effected by educational efforts, broadly conceived of. Education in schools should include thorough, non-sexist study of human sexuality and socio-sexual relations so that an accurate picture of the needs, interests and rights of all people can be more clearly understood and respected.

Derogatory stereotypes about women as a group must be countered in the work place and in the community by thorough education about women's full human capacities and rights. Programs can be developed in a place of work or a school, or even a club or social group to facilitate passing on useful knowledge about the destructiveness of ignorance of segregating any group from another because of strongly-held prejudices.

## CONCLUSION

Thus, attempts must be made in every aspect of our lives in order to bring about a truly egalitarian society, one that allows all women and men to have a genuine choice in their personal, economic, and social lives. In a world like that, sexuality, companionship or security need not be bought or sold. Nor, to return to the closely related issue of pornography, would people find it sexually stimulating to see the brutalization of any member of our society. They would not buy these products and no one would produce them. That may be far in the future, but the Canadian Advisory Council on the Status of Women hopes the work of this Committee will play an important part in shortening that time to come.



## NOTES

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